

FILED (5)
08 JUL 14 PM 4:12
RICHARD W. WIEKING
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

E-filing

1 a

DENNIS J. HERRERA, State Bar #139669
City Attorney
JOANNE HOEPER, State Bar #114961
Chief Trial Deputy
MEGHAN K. HIGGINS, State Bar #114961
Deputy City Attorney
Fox Plaza
1390 Market Street, 6th Floor
San Francisco, California 94102-5408
Telephone: (415) 554-3896
Facsimile: (415) 554-3837
E-Mail: Meghan.Higgins@sfgov.org

Attorneys for Defendant
CITY AND COUNTY OF SAN FRANCISCO

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOSEPH VICTOR LAGANA,

Plaintiff,

vs.

SAN FRANCISCO POLICE
DEPARTMENT,

Defendant.

Case No.

CV 08
(State Superior Court Case
No. CGC-08-475803)

CW
3392

**NOTICE TO FEDERAL DISTRICT
COURT OF REMOVAL OF ACTION
FROM STATE SUPERIOR COURT
((Pursuant to 28 U.S.C. § 1441(b)
(Federal Question))**

Attached Document (Exh. A): Complaint
for General Negligence, Intentional Tort,
First Amendment Violation and Assault,
Frequent Threats and Stalking Towards
Plaintiff

TO: CLERK OF THE ABOVE-ENTITLED COURT:

TO: PLAINTIFF IN PRO PER:

NOTICE IS HEREBY GIVEN that the City and County of San Francisco (erroneously named
as San Francisco Police Department), named as defendant in the above-captioned action, No. CGC-
08-475803 in the files and records of the Superior Court in and for the City and County of San

1 Francisco, hereby files in the United States District Court for the Northern District of California a
2 Notice of Removal of said action to the said United States District Court, pursuant to 28 U.S.C.
3 §§1441 and 1446, and is filing in said Superior Court a Notice of Removal.

4 Defendants, pursuant to 28 U.S.C. §§1441 and 1446, presents the following facts to the
5 Judges of the United States District Court for the Northern District of California:

6 A civil action bearing the above-caption was commenced in the Superior Court of California,
7 in and for the City and County of San Francisco, Action No. CGC-08-475803, on May 29, 2008, and
8 is pending therein.

9 The Complaint in said pending action includes allegations brought under 42 U.S.C. § 1983
10 that the named defendant violated the civil rights of Plaintiff.

11 This action may properly be removed to this Court pursuant to 28 U.S.C. §1441, for the
12 reason that Plaintiff's complaint alleges a violation of laws of the United States.

13 To the extent that Plaintiff's complaint alleges a claim or cause of action other than violations
14 of rights under the laws of the United States, said cause(s) of action may be removed and adjudicated
15 by this Court pursuant to 28 U.S.C. §1441(c).

16 Pursuant to 28 U.S.C. §1446(b), a copy of the complaint is hereto attached as Exhibit A. All
17 other process, pleadings and other orders served upon Defendants in this action will be forwarded
18 forthwith when they are retrieved from the Superior Court docket.

19 Venue in this district is proper under 28 U.S.C. § 1441 because this District includes the
20 California Superior Court for San Francisco County, the forum in which the removed action was
21 pending.

22 Defendant will promptly file a Notice of this Removal with the Clerk of the Superior Court
23 for San Francisco County and serve the Notice on all parties.

24 WHEREFORE, Defendant prays that the above action now pending in the Superior Court of
25 the State of California in and for the City and County of San Francisco be removed in its entirety to
26 this Court for all further proceedings, pursuant to 28 U.S.C. §1441, *et. seq.*

1 Dated: July 14, 2008

2 DENNIS J. HERRERA
3 City Attorney
4 JOANNE HOEPER
5 Chief Trial Deputy
6 MEGHAN K. HIGGINS
7 Deputy City Attorneys

8 By: 

9 MEGHAN K. HIGGINS

10 Attorneys for Defendant
11 CITY AND COUNTY OF SAN FRANCISCO
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Exhibit A



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): JOSEPH VICTOR LAGANA 5238 CARTWRIGHT AVE #8 N. HOLLYWOOD, CA 91601 TELEPHONE NO 818-769-0300 FAX NO. (Optional) E-MAIL ADDRESS (Optional) Josephvl@yahoo.com ATTORNEY FOR (Name) Self / Joseph V. Lagana		FOR COURT USE ONLY FILED MAY 26 2008 GORDON PARK-LI, Clerk CASE MANAGEMENT CONFERENCE
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO STREET ADDRESS: 400 MCCALLISTER ST. MAILING ADDRESS: CITY AND ZIP CODE: SAN FRANCISCO 94102 BRANCH NAME:		
PLAINTIFF: JOSEPH VICTOR LAGANA DEFENDANT: SAN FRANCISCO POLICE DEPARTMENT		OCT 31 2008 - 9 AM SUMMONS ISSUED DEPARTMENT 14
<input type="checkbox"/> DOES 1 TO COMPLAINT—Personal Injury, Property Damage, Wrongful Death <input type="checkbox"/> AMENDED (Number): Type (check all that apply): <input type="checkbox"/> MOTOR VEHICLE <input type="checkbox"/> OTHER (specify): <input checked="" type="checkbox"/> Property Damage <input type="checkbox"/> Wrongful Death <input checked="" type="checkbox"/> Personal Injury <input checked="" type="checkbox"/> Other Damages (specify): Jurisdiction (check all that apply): <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000, but does not exceed \$25,000 <input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint <input type="checkbox"/> from limited to unlimited <input type="checkbox"/> from unlimited to limited		
CASE NUMBER: CGC-08-475803		THE ANNEXED INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN MY OFFICE. ATTEST: CERTIFIED

1. Plaintiff (name or names):

alleges causes of action against defendant (name or names):

SAN FRANCISCO POLICE DEPARTMENT

2. This pleading, including attachments and exhibits, consists of the following number of pages:

3. Each plaintiff named above is a competent adult

a. ☐ except plaintiff (name):

- (1) ☐ a corporation qualified to do business in California
 (2) ☐ an unincorporated entity (describe):
 (3) ☐ a public entity (describe):
 (4) ☐ a minor ☐ an adult
 (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 (b) ☐ other (specify):
 (5) ☐ other (specify):

b. ☐ except plaintiff (name):

- (1) ☐ a corporation qualified to do business in California
 (2) ☐ an unincorporated entity (describe):
 (3) ☐ a public entity (describe):
 (4) ☐ a minor ☐ an adult
 (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 (b) ☐ other (specify):
 (5) ☐ other (specify):

☐ Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

JUN 05 2008

 GORDON PARK-LI, Clerk
 SUPERIOR COURT

BY

DENNIS TOTAPPAK

SHORT TITLE:

PLD-PI-001

CASE NUMBER:

4. ☐ Plaintiff (name):

is doing business under the fictitious name (specify):

and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person

a. ☐ except defendant (name):

- (1) ☐ a business organization, form unknown
 (2) ☐ a corporation
 (3) ☐ an unincorporated entity (describe):

(4) ☐ a public entity (describe):(5) ☐ other (specify):c. ☐ except defendant (name):

- (1) ☐ a business organization, form unknown
 (2) ☐ a corporation
 (3) ☐ an unincorporated entity (describe):

(4) ☐ a public entity (describe):(5) ☐ other (specify):b. ☐ except defendant (name):

- (1) ☐ a business organization, form unknown
 (2) ☐ a corporation
 (3) ☐ an unincorporated entity (describe):

(4) ☐ a public entity (describe):(5) ☐ other (specify):d. ☐ except defendant (name):

- (1) ☐ a business organization, form unknown
 (2) ☐ a corporation
 (3) ☐ an unincorporated entity (describe):

(4) ☐ a public entity (describe):(5) ☐ other (specify):☐ Information about additional defendants who are not natural persons is contained in Attachment 5.

6. The true names of defendants sued as Does are unknown to plaintiff.

a. ☐ Doe defendants (specify Doe numbers): _____ were the agents or employees of other named defendants and acted within the scope of that agency or employment.b. ☐ Doe defendants (specify Doe numbers): _____ are persons whose capacities are unknown to plaintiff.7. ☐ Defendants who are joined under Code of Civil Procedure section 382 are (names):

8. This court is the proper court because

- a. ☐ at least one defendant now resides in its jurisdictional area.
 b. ☐ the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.
 c. ☐ injury to person or damage to personal property occurred in its jurisdictional area.
 d. ☐ other (specify):

9. ☐ Plaintiff is required to comply with a claims statute, anda. ☐ has complied with applicable claims statutes, orb. ☐ is excused from complying because (specify):

PLD-PI-001

SHORT TITLE:

CASE NUMBER:

10. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):

- a. ☐ Motor Vehicle
 b. ☒ General Negligence
 c. ☒ Intentional Tort
 d. ☐ Products Liability
 e. ☐ Premises Liability
 f. ☒ Other (specify):

First Amendment violation and assault, Frequent threats and stalking towards plaintiff.

11. Plaintiff has suffered

- a. ☐ wage loss
 b. ☐ loss of use of property
 c. ☐ hospital and medical expenses
 d. ☒ general damage
 e. ☐ property damage
 f. ☐ loss of earning capacity
 g. ☒ other damage (specify):

Emotional distress.

12. ☐ The damages claimed for wrongful death and the relationships of plaintiff to the deceased are

- a. ☐ listed in Attachment 12.
 b. ☐ as follows:



13. The relief sought in this complaint is within the jurisdiction of this court.

14. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. (1) ☒ compensatory damages
 (2) ☒ punitive damages

The amount of damages is (in cases for personal injury or wrongful death, you must check (1)):

- (1) ☐ according to proof
 (2) ☒ in the amount of: \$ 250,000,000

15. ☐ The paragraphs of this complaint alleged on information and belief are as follows (specify paragraph numbers):

Date:

5/29/08

(TYPE OR PRINT NAME)

Joseph V. Lagana

(SIGNATURE OF PLAINTIFF OR ATTORNEY)

PROOF OF SERVICE

I, ANNA BURCIAGA, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the above-entitled action. I am employed at the City Attorney's Office of San Francisco, Fox Plaza Building, 1390 Market Street, Fifth Floor, San Francisco, CA 94102.

On July 14, 2008, I served the following document(s):

NOTICE TO FEDERAL DISTRICT COURT OF REMOVAL OF ACTION FROM STATE SUPERIOR COURT

**((Pursuant to 28 U.S.C. § 1441(b)
(Federal Question))**

on the following persons at the locations specified:

Joseph Victor Lagana, In Pro Per
5238 Cartwright Avenue, #8
No. Hollywood, CA 91601

in the manner indicated below:

☒ **BY UNITED STATES MAIL:** Following ordinary business practices, I sealed true and correct copies of the above documents in addressed envelope(s) and placed them at my workplace for collection and mailing with the United States Postal Service. I am readily familiar with the practices of the San Francisco City Attorney's Office for collecting and processing mail. In the ordinary course of business, the sealed envelope(s) that I placed for collection would be deposited, postage prepaid, with the United States Postal Service that same day.

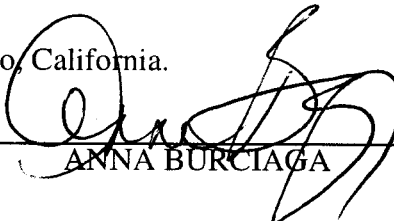
☐ **BY PERSONAL SERVICE:** I sealed true and correct copies of the above documents in addressed envelope(s) and caused such envelope(s) to be delivered by hand at the above locations by a professional messenger service. A declaration from the messenger who made the delivery ☐ is attached or ☐ will be filed separately with the court.

☐ **BY OVERNIGHT DELIVERY:** I sealed true and correct copies of the above documents in addressed envelope(s) and placed them at my workplace for collection and delivery by overnight courier service. I am readily familiar with the practices of the San Francisco City Attorney's Office for sending overnight deliveries. In the ordinary course of business, the sealed envelope(s) that I placed for collection would be collected by a courier the same day.

☐ **BY FACSIMILE:** Based on a written agreement of the parties to accept service by fax, I transmitted true and correct copies of the above document(s) via a facsimile machine at telephone number Fax #' to the persons and the fax numbers listed above. The fax transmission was reported as complete and without error. The transmission report was properly issued by the transmitting facsimile machine, and a copy of the transmission report ☐ is attached or ☐ will be filed separately with the court.

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Executed July 14, 2008, at San Francisco, California.


ANNA BURCIAGA